

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF OKLAHOMA**

(1) <b>SHELBY ANDOLINO,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.:    CIV 22-331-KEW
	)	McCurtain County Case No.: CJ-2022-105
(1) <b>BARRY WAYNE COLLINS,</b>	)	
(2) <b>CRST EXPEDITED, INC.</b>	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendant, CRST Expedited, Inc. (“CRST”) removes this action to the United States District Court for the Eastern District of Oklahoma pursuant to 28 U.S.C. §§ 1332(a)(1), 1441, and 1446. This action is removable because there is complete diversity of citizenship between Plaintiff, Shelby Andolino (“Plaintiff”) and Defendants, Barry Wayne Collins and CRST Expedited, Inc., and because the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000. In support of this Notice of Removal, CRST states:

**Procedural History**

1.        On October 24, 2022, Plaintiff filed a Petition against Defendants commencing the civil action styled *Shelby Andolino v. Barry Wayne Collins and CRST Expedited, Inc.*, Case No. CJ-2022-105, in the District Court of McCurtain County, Oklahoma (the “State Court Action”).

2.        Plaintiff served CRST with the Petition on November 1, 2022, by serving its registered service agent.

3.        CRST has thus filed this Notice of Removal within the thirty-day period provided by 28 U.S.C. §1446(b) and within one year of the commencement of the action as required by 28 U.S.C. §1446(c)(1).

4. Pursuant to 28 U.S.C. §1446(a) and Local Rule LCvR 81.2, CRST has attached as exhibits to this Notice of Removal true and legible copies of all documents filed or served in the State Court Action: a copy of the Docket Sheet from the State Court Action is attached as **Exhibit 1**; a copy of the Petition is attached as **Exhibit 2**; and a copy of the Special Entry of Appearance and Reservation of Time to Plead and Answer is attached as **Exhibit 3**. At the time of filing this Notice of Removal, there have been no other filings or proceedings in the State Court Action except those attached as Exhibits 1-3.

5. CRST has not filed a responsive pleading in the State Court Action. In filing this Notice of Removal, CRST does not waive any defense or counterclaim that may be available.

#### **Diversity of Citizenship**

6. Plaintiff is a resident and citizen of the state of Oklahoma (Ex. 2, Pet., ¶1.)

7. CRST has its principal place of business in Linn County, State of Iowa. Accordingly, CRST is a citizen of Iowa. *See* 28 U.S.C. §1332(c) (“For the purposes of this section and second 1441 of this title...a corporation shall be deemed a citizen of every State and foreign state by which it has been incorporated and the State or foreign state where it has its principal place of business...”).

8. Defendant Barry Wayne Collins is a citizen of Texas (*Id.* at ¶2.)

9. Therefore, there is complete diversity of citizenship between Plaintiff and CRST in accordance with 28 U.S.C. §1332(a)(1).

#### **Amount in Controversy**

10. As shown in the Petition, the amount in controversy exceeds \$75,000, exclusive of interest and costs. (*See* Ex. 2, Pet., - “WHEREFORE” paragraph.)

### **Removal Venue and Notice**

11. Removal venue is appropriate in this Court, as this Court embraces McCurtain County, the district in which the State Court Action was pending.

12. Written notice of the filing of this Notice of Removal will be given promptly to counsel for Plaintiff, and a copy of the Notice of Removal will be filed with the Clerk of the District Court of McCurtain County, Oklahoma, as required by 28 U.S.C. §1446(d).

### **Conclusion**

13. This is a civil action over which this Court has original subject matter jurisdiction pursuant to the provisions of 28 U.S.C. §1332. This action is one that may be removed to this Court by CRST pursuant to the provisions of 28 U.S.C. §1441, in that it is a civil action between citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.

14. Therefore, under the applicable provisions of 28 U.S.C. §§ 1332, 1441, and 1446, CRST has complied with all necessary requirements and is entitled to remove this action.

Accordingly, CRST removes all claims in the State Court Action from the District Court of McCurtain County, Oklahoma, to the United States District court for the Eastern District of Oklahoma.

Respectfully submitted,

/s/ Thomas M. Askew  
Thomas M. Askew, OBA #13568  
Sharon K. Weaver, OBA #19010  
Wm. Gregory James, OBA #4620  
RIGGS, ABNEY, NEAL, TURPEN  
ORBISON & LEWIS, PC  
502 W. 6<sup>th</sup> Street  
Tulsa, Oklahoma 74119  
(918) 587-3161  
(918) 587-9708 (Facsimile)  
[taskew@riggsabney.com](mailto:taskew@riggsabney.com)  
[sweaver@riggsabney.com](mailto:sweaver@riggsabney.com)  
[gjames@riggsabney.com](mailto:gjames@riggsabney.com)  
*Attorneys for Defendants*  
*CRST Expedited, Inc. and*  
*Barry Wayne Collins*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 22, 2022, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Mark E. Litton  
Litton Law Firm, PLLC  
1900 NW Expressway, Ste. 1220  
Oklahoma City, Oklahoma 73118  
[mlitton@littonlawfirm.com](mailto:mlitton@littonlawfirm.com)  
*Attorneys for Plaintiff*

/s/ Thomas M. Askew  
Thomas M. Askew